IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY THE TWENTY SEVENTH DAY OF DECEMBER
TWO THOUSAND AND SIX

PRESENT
THE HON'BLE SRI JUSTICE J.CHELAMESWAR
and
THE HON'BLE SRI JUSTICE D. APPA RAO

W.P.No. 26697 of 2006

Between:-

M/s. Vasavi Industries Limited,
Rajam.

..Petitioner

And

1. The Commercial Tax Officer,
   Rajam Circle, Srikakulam Distraict
   and two others.

..Respondents

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ORDER (Per JC,J) :

This writ petition is filed with a prayer as follows:

> "To restrain the 1st respondent from taking any coercive steps for payment of disputed penalty and interest of Rs.2,63,100/- & Rs.1,315/- for the tax period June & July, 2005 under the APVAT Act, pending disposal of the appeal before the Sales Tax Appellate Tribunal."

2. The petitioner is a limited company and registered dealer on the rolls of the 1st respondent-The Commercial Tax Officer, Rajam Circle, Srikakulam District, under the A.P. VAT Act (for short 'the Act') carrying on the business in the sale of iron and steel. The liability of the petitioner under the Act for the months of June and July, 2005 came to be determined by the 1st respondent by his order dated 25-05-2006. The respondents disallowed the claim of the petitioner of input tax credit on various grounds. The details of which may not be necessary for the present purpose. Consequently they came to the conclusion that there is an evasion of tax. The respondents, therefore, levied penalty for the tax period June & July, 2005 and also chose to impose interest.

3. Aggrieved by the same, the petitioner carried the matter in appeal before the 2nd respondent-The Appellate Deputy Commissioner (CT), Visakhapatnam Division, Visakhapatnam. The 2nd respondent dismissed the appeal by his order dated 09-08-2006. The petitioner carried the matter further appeal before the Sales Tax Appellate Tribunal. The same is said to be pending. Along with the appeal, the petitioner moved an application for stay of recovery of penalty and interest. As the

Tribunal is not empowered with stay powers, the petitioner filed stay application before the 3rd respondent-The Joint Commissioner (CT) Legal, Andhra Pradesh, Nampally, Hyderabad, which was heard on

21-11-2006 and it appears, no order has been passed so far on the said application. In the mean while, the 1st respondent pressurized for payment of disputed tax amount.

5. Admittedly, the entire amount of tax is paid. It is settled law that this Court in **DELTA LUBRICANTS v. DEPUTY COMMERCIAL TAX OFFICER, VIJAYAWADA**[1], opined that a composite order providing for levy of tax, penalty and imposition of interest is illegal.

6. In the circumstances, we deem it appropriate to dispose of the writ petition at the admission stage directing the respondents not to take any coercive steps for the recovery of penalty and interest during the pendency of the appeal before the Sales Tax Appellate Tribunal.

7. With the aforementioned direction, the Writ Petition is disposed of. No costs.

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J.CHELAMESWAR,J

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December 27, 2006 **D.APPA RAO,J**

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[1] (2006) 147 STC 462 (AP)